principal case, the plaintiff expected to receive compensation through the society of the child. Therefore, since his services under the agreement were not illegal or officious, he can recover on a *quantum meruit*.

PATENTS — INFRINGEMENT — USE BY GOVERNMENT. — Certain government officers drew up specifications for wireless apparatus for warships. These plans made it impossible to build such apparatus without infringement of the plaintiff's patent. The government advertised for bids and awarded the contract to supply the apparatus to the defendant. The patentee brings a bill to enjoin the carrying out of this contract. On a motion for a preliminary injunction the entire bill was dismissed. *Marconi Wireless Telegraph Co. of America* v. *Simon*, 54 N. Y. L. J. 671 (U. S. Dist. Ct., South. Dist. N. Y.).

Before 1910 a patentee had no relief for a governmental infringement of his patent unless a contractual obligation to pay for the same could be established. *Schillinger* v. *United States*, 155 U. S. 163; *United States* v. *Berdan Fire-Arms Mfg. Co.*, 156 U. S. 552. This was owing to the fact that the United States had consented to be sued only in actions sounding in contract. See U. S. REV. STAT., § 1059. In 1910 a statute was passed permitting a patentee to recover just compensation in the Court of Claims in case the United States used his patent without license or lawful right. See 1 FED. STAT. ANN., 1912 SUPP. 286. This statute has been construed as establishing the right of the government to appropriate a license to use a patent as an exercise of the power of eminent domain. See *Crozier* v. *Krupp*, 224 U. S. 290, 305. Under this construction the appropriation by the government is no longer a tort with no remedy but a lawful taking, since compensation need not precede the taking. *Great Falls Mfg. Co.* v. *Garland*, 25 Fed. 521. Granting, then, that since 1910 the government may lawfully appropriate a license to use a patent, it should be permitted to do so through the means of an independent contractor since there is no substantial difference between appropriating a patent directly by government agents or indirectly by an independent contractor. There is no hardship on the patentee since he recovers just compensation in the Court of Claims.

PLEDGES — WRONGFUL SALE OF STOCK BY BANK PRESIDENT — LIABILITY OF BANK. — The plaintiff pledged stock to the defendant bank, giving the president of the bank authority to sell the stock in case the debt was unpaid when due. The latter, without notice to the plaintiff, fraudulently sold the stock for an inadequate price. *Held*, that neither the bank nor its president is liable in trover for the conversion of the stock, but that the latter is liable for the damages the plaintiff has actually incurred. *Lem* v. *Wilson*, 150 Pac. 641 (Cal. Dist. Ct. of App.).

No express authority is needed to enable the pledgee to sell stock pledged if the debt remains unpaid at maturity, and the sale is made after due notice to the pledgor, for an adequate price, and under conditions reasonably tending to safeguard the pledgor's interests. *Morris Canal & Banking Co.* v. *Lewis*, 12 N. J. Eq. 323; *Diller* v. *Brubaker*, 52 Pa. St. 498. See JONES, PLEDGES AND COLLATERAL SECURITIES, 2 ed., §§ 721, 722, 723. In the principal case the authority given by the plaintiff to the bank president waived none of these conditions of sale, and was merely an affirmance of the pledgee's common-law right. Again it did not constitute the president the plaintiff's agent to sell the stock, for the sale is for the benefit of the bank, not for the plaintiff. See MECHEM, AGENCY, § 1. Nor is the president made a trustee, for the plaintiff, and not he, has the legal title to the pledge *res*. See PERRY, TRUSTS AND TRUSTEES, 6 ed., §§ 1, 2. Then, since the sale was wrongful, it amounts to a conversion of the stock. *Dimock* v. *United States Nat. Bank*, 55 N. J. L. 296, 25 Atl. 926; *Content* v. *Banner*, 184 N. Y. 121, 76 N. E. 913. Technically, it is a conversion for which trover should not lie, since the pledgor has neither posses-

sion nor the right to possession, at the time of the conversion. *Halliday* v. *Holgate*, L. R. 3 Ex. 299. However, it is now generally held that the pledgor may sue in trover when the pledgee sells wrongfully after maturity, on the theory that the tortious act vests the right to possession in the pledgor. *Neiler* v. *Kelley*, 69 Pa. St. 403; *Feige* v. *Burt*, 118 Mich. 243, 77 N. W. 928; *King* v. *Boerne State Bank*, 159 S. W. 433 (Tex. Civ. App.). See 13 HARV. L. REV. 55; 18 *ibid.* 610. And since the sale was made by the president in the scope of his authority, and for the benefit of the bank, the latter should be liable in trover also. *Johnston Fife Hat Co.* v. *Nat. Bank of Guthrie*, 4 Okla. 17, 44 Pac. 192.

POST-OFFICE — USE OF MAILS TO DEFRAUD — WHAT CONSTITUTES "SCHEME OR ARTIFICE." — The defendant, as president of a corporation engaged in a legitimate business, mailed a fraudulent statement of its financial condition to a bank to induce a loan to the corporation. The use of the mail for any scheme or artifice to defraud or obtain money by false pretenses is unlawful. CRIM. CODE, § 215; 35 U. S. STAT. AT L. 1130. The defense was that this single transaction in connection with a legitimate business was not a "scheme or artifice" within the meaning of the statute. *Held*, that the defendant was guilty of a violation of the statute. *Bettman* v. *United States*, 224 Fed. 819 (C. C. A., 6th Circ.).

Until the latest amendment, this statute only provided against the use of the mails for a scheme or artifice to defraud. REV. STAT., § 5480; as amended, 25 U. S. STAT. AT L. 873. The underlying purpose of the statute was stated to be the broad one of reserving the mails to legitimate business. See *Horman* v. *United States*, 116 Fed. 350. Further, the phrase "scheme or artifice" received a very broad construction. *Durland* v. *United States*, 161 U. S. 306, 313; *United States* v. *Stever*, 222 U. S. 167, 173; *O'Hara* v. *United States*, 129 Fed. 551, 555. The amendment making criminal a scheme or artifice to obtain money by false pretenses considerably broadened the scope of the act. Misrepresentations of financial condition mailed to one that he might induce others to make loans relying upon those representations constitutes use of the mails for a scheme within the statute. *United States* v. *Young*, 232 U. S. 155. Also such single transactions as a blackmailing letter, or an attempt to obtain goods by mailing a worthless check in payment, are "schemes" within the statute. *Weeber* v. *United States*, 62 Fed. 740; *Harrison* v. *United States*, 200 Fed. 662, 665; *Charles* v. *United States*, 213 Fed. 707, 712. Even under the unamended statute a transaction apparently indistinguishable from that in the principal case was held to fall within the statute. *Scheinberg* v. *United States*, 213 Fed. 757. In view of the fact that the broad interpretation always given to this act was nevertheless followed by amendments extending its scope, the principal case seems necessarily correct.

QUASI-CONTRACTS — RESCISSION OF CONTRACT FOR SALE OF LAND BY PURCHASER — RECOVERY BY VENDOR FOR USE AND OCCUPATION. — A purchaser in possession under a contract for the sale of land, on the ground of a breach by the vendor, rescinded the contract and recovered back the part payment he had already made, but no interest thereon. The vendor sues for the value of the use and occupation of the premises. *Held*, that he cannot recover. *Castle* v. *Armstead*, 168 App. Div. (N. Y.) 466.

It is well settled that an action for use and occupation lies only where there is the "relation of landlord and tenant" between the parties. 2 TAYLOR, LANDLORD AND TENANT, 9 ed., § 636. Some courts construe this to exclude cases where the relation is that of vendor and purchaser. *Smith* v. *Stewart*, 6 Johns. (N. Y.) 46; *Ankeny* v. *Clark*, 148 U. S. 345, 359. But the better view is merely that the defendant must have been in possession in acknowledged subordination to the plaintiff's title. *Clark* v. *Green*, 35 Ga. 92. This is a necessary premise for those cases, representing the weight of authority, which